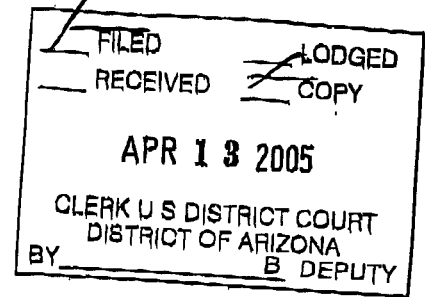


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9 IN THE UNITED STATES DISTRICT COURT FOR THE
10 DISTRICT OF ARIZONA

CV'05 1114 PHX JAT

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 DENNIS H. LAWRENCE, d/b/a Legal-Ease, LLC;
15 ALLEN VANDERWEY, d/b/a American Living
Trust Services, LLC; and JAMES G. MORRIS,
16 d/b/a MFE Financial Services, LLC,

17 Defendants.
18

Civil No. _____

COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER EQUITABLE
RELIEF

19 Plaintiff United States of America makes the following allegations against the defendants, Dennis
20 H. Lawrence, individually and doing business as Legal-Ease, LLC; Allen Vanderwey, individually and
21 doing business as American Living Trust Services, LLC; and James G. Morris, individually and doing
22 business as MFE Financial Services, LLC:

23 1. This is a civil action brought by the United States pursuant to sections 7402(a), 7407 and 7408
24 of the Internal Revenue Code of 1986 (26 U.S.C.) ("IRC") to restrain and enjoin defendants and all those
25 in active concert or participation with them from:

- 26 (a) acting as federal income tax return preparers;
27 (b) promoting, organizing or selling tax shelters, plans or arrangements that advise or
28 encourage customers to attempt to evade the assessment or collection of their
correct federal tax;

- 1 (c) preparing or assisting in the preparation of tax returns that defendants know or
2 have reason to know will result in the understatement of any tax liability;
3 (d) understating customers' tax liabilities as prohibited by IRC § 6694;
4 (e) engaging in any other activity subject to penalty under IRC §§ 6694, 6700 or 6701;
5 and
6 (f) engaging in other conduct that substantially interferes with the proper
7 administration and enforcement of the internal revenue laws.

8 **Jurisdiction**

9 2. This civil action has been requested by the Chief Counsel of the Internal Revenue Service, a
10 delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney
11 General of the United States, pursuant to the provisions of IRC §§ 7401 and 7408.

12 3. Jurisdiction is conferred upon this Court by sections 1340 and 1345 of Title 28, United States
13 Code, and IRC §§ 7402(a), 7407 and 7408.

14 **Defendants**

15 4. Defendant Dennis H. Lawrence resides at 2256 East Jaeger Street in Mesa, Arizona, within the
16 jurisdiction of this Court.

17 5. Defendant Allen Vanderwey resides at 7736 South Apricot Drive in Tempe, Arizona, within
18 the jurisdiction of this Court.

19 6. Defendant James G. Morris resides at 4746 East Grandview in Mesa, Arizona, within the
20 jurisdiction of this Court.

21 **Defendants' activities**

22 7. Since approximately 1994, Lawrence has organized and sold fraudulent tax shelters, plans or
23 arrangements that advise or encourage customers to attempt to evade the assessment and/or collection of
24 their correct federal tax.

25 8. As more fully described below, Vanderwey has assisted Lawrence by selling his fraudulent
26 tax shelters, plans or arrangements through an extensive network of insurance agents and tax preparation
27 professionals.
28

9. As a federal income tax return preparer within the meaning of IRC § 7701(36), Morris has prepared federal tax returns in accordance with the fraudulent tax shelters, plans or arrangements that Lawrence and Vanderwey organized, promoted and sold.

Sales of Business Trust Organizations

10. The fraudulent tax schemes that Lawrence has organized, promoted and sold have changed over time as a result of IRS audits of his customers' federal tax returns.

11. Beginning in 1994, Lawrence promoted the use of a “Business Trust Organization” to (according to his brochure) “save \$1,000s of dollars each year in FICA and Income Tax.”

12. Customers who purchased Business Trust Organizations from Lawrence through Vanderwey and others were instructed to create separate trusts to operate the customer's business and hold its assets. The customer's relationship to the business that was purportedly transferred to the holding trust did not change after the purported transfer, and defendants' customers continued to use all of the purportedly transferred property as their own. For example, after supposedly transferring their businesses and other property to the holding trusts, the customers and former business owners continued to exercise sole signature authority over the bank accounts and other assets of the businesses.

13. In nearly all cases that were examined by the Internal Revenue Service, the defendants’ customers did not actually transfer their businesses and assets to a trust or any other entity. Very few of defendants’ customers established bank accounts for the trusts which they established as part of Lawrence’s “Business Trust Organization.”

14. Defendants’ customers used the “Business Trust Organization” to create multiple nominees or alter egos which claimed numerous improper tax deductions and understated their self-employment tax liabilities, resulting in the customers’ failure to report and pay millions of dollars of federal taxes that were owed.

15. Under Lawrence’s “Business Trust Organization” tax scheme, net profits from the customer’s business were supposed to be distributed from an operating trust to the holding trust. The holding trust then used those net profits to pay the customer’s nondeductible personal living expenses and distributed the remainder to the customer, who reported the remaining income on his or her Form 1040 tax return as

1 “income from trusts and estates” that was not subject to self-employment tax.

2 16. A promotional tape for Lawrence’s “Business Trust Organization” advertises its benefits
3 as including: (1) a reduction in self-employment taxes paid by splitting the income from the operation of
4 the business between the holding trust and the customer/former business owner; (2) a reduction of federal
5 income taxes paid by the customer by reducing his or her salary/draw from the operation of the business;
6 (3) freeing up income for the customer to invest in a private pension in lieu of social security payments;
7 (4) privacy for the customer’s business; and (5) increased tax deductions by allowing the holding trust to
8 claim tax deductions for the customer’s personal living expenses, including education, care for elderly
9 relatives, utilities, and other non-deductible personal expenses.

10 **Sales of Limited Liability Corporations and S-Corporations**

11 17. The IRS examined numerous federal tax returns filed by Lawrence’s customers and their
12 trusts, and determined that the operating and holding trusts were sham or grantor trusts. As a result,
13 additional federal taxes, penalties and interest were assessed against Lawrence’s customers. Because of
14 those IRS examinations, and in order to evade IRS scrutiny of his customers’ participation in fraudulent
15 tax schemes, Lawrence replaced the trust scheme with a scheme involving “Limited Liability
16 Corporations” or LLCs.

17 18. Beginning in 1996, Lawrence instructed his customers to transfer their businesses and
18 assets to an LLC instead of a trust. Customers who purchased these arrangements would own between
19 one and ten percent of the LLC. The remaining 90-99% ownership interest in the LLC would be held by
20 a holding trust established and controlled by the customer.

21 19. These arrangements were used to evade federal income and self-employment taxes owed by
22 Lawrence’s customers. The customers’ LLCs distributed between 90 and 99% of the income from the
23 customers’ businesses to the customers’ holding trusts. After paying and deducting the customers’
24 personal or non-deductible expenses, the holding trusts distributed the remaining income to the
25 customers as “income from trusts and estates” on their tax returns as part of the scheme to evade paying
26 income and/or self-employment taxes.

20. Defendant Morris prepared individual federal income tax returns for customers who bought defendants' trust packages, partnership federal income tax returns for the customers' limited liability companies (LLCs), and federal trust income tax returns for the customers' holding trusts. The income tax returns that defendant Morris prepared improperly and illegally understated the federal self-employment tax liabilities of defendants' customers by reporting the amounts they received from the holding trusts as "income from trusts."

21. Under Lawrence's third fraudulent tax scheme, which he organized and began to promote in 1998, a Subchapter S Corporation owns a 90-99% interest in the LLC that purportedly owns and operates the customer's business. The remaining 1-10% interest in the LLC is owned by the customer. The LLC pays a minimal salary to the customer, which results in a significant understatement of the customer's federal income and employment tax liabilities. The S-Corporation serves as a mere conduit between the LLC and the customer, who reports receiving approximately 90-99% of the net profits from the operation of his or her business as income from the operation of an S-Corporation that is not subject to self-employment tax.

22. Lawrence has organized, promoted and sold his “Business Trust Organization” and his other plans and arrangements through Vanderwey and an extensive network of insurance agents and other tax professionals. Vanderwey, doing business as American Living Trust Services, LLC, solicits customers for Lawrence through advertisements placed in insurance industry periodicals.

23. Vanderwey, in an interview with the IRS, claimed to have a working relationship with between 300 and 400 insurance agents throughout the United States. After the customers purchased one of defendants' fraudulent tax schemes, the agents and other salespeople gave a questionnaire prepared by Lawrence and Vanderwey to the customers to enable Lawrence to prepare the documents necessary to create the trusts, LLCs and S-Corporations.

Harm to the Public

24. Defendants' customers have been harmed by defendants' organization, promotion and sales of the fraudulent trust scam described in paragraphs 10 through 23, above, because in many cases they have been compelled to pay substantial penalties and statutory interest as well as additional federal

1 income taxes after their federal income tax returns were examined by the IRS. Additionally, customers
2 could be subject to criminal prosecution for participating in defendants' fraudulent schemes.

3 25. Defendants' customers have also been harmed because they paid Lawrence, Vanderwey,
4 and Morris considerable amounts to establish fraudulent trusts, limited liability corporations and S-
5 Corporations, and because they paid Morris significant fees to prepare false and fraudulent tax returns
6 that improperly understated their federal tax liabilities.

7 26. The United States is harmed because defendants' customers are not reporting and paying the
8 taxes they owe. Based on examination results to date, the IRS estimates that the revenue loss attributable
9 to defendants' activities thus far is \$15 million, with an estimated additional future losses of \$5 million
10 per year. Moreover, some of the tax deficiencies for which defendants are responsible may never be
11 collected, resulting in a permanent loss to the Treasury.

12 27. The United States is also harmed because the IRS is forced to devote its limited resources to
13 identifying and collecting this lost revenue from defendants' customers. Furthermore, given the limited
14 resources of the IRS, identifying and collecting all tax revenues lost from defendants' schemes may be
15 impossible.

16 28. In addition to the harm caused by their advice, statements and services, defendants'
17 activities undermine public confidence in the fairness of the federal tax system and incite non-compliance
18 with the internal revenue laws.

19 **Count I**

20 **Injunction under IRC § 7408**

21 29. Plaintiff incorporates by reference the allegations in paragraphs 1-28.

22 30. Section 7408(a) of the Internal Revenue Code authorizes a district court to enjoin any
23 person from engaging in conduct subject to penalty under IRC §§ 6700 and 6701, if injunctive relief is
24 appropriate to prevent recurrence of that conduct.

25 31. Section 6700 of the Code imposes a penalty on any person who, in connection with
26 organizing, promoting or selling a plan or arrangement, makes or furnishes a statement about the tax
27 consequences of participating in the plan or arrangement which the person knows or has reason to know
28

1 is false or fraudulent as to any material matter.

2 32. Section 6701 of the Code imposes a penalty on any person who, among other conduct,
3 knowingly aids or assists in the understatement of the tax liability of another person on a tax return, claim
4 for refund, or other document.

5 33. The “trusts,” limited liability companies (LLCs) and S-Corporations that Lawrence and
6 Vanderway have organized, promoted and sold to their customers are shams that are devoid of economic
7 substance, or alternatively are grantor trusts that may be disregarded for federal income tax purposes.

8 34. The aforementioned “trusts,” limited liability companies (LLCs) and S-Corporations are
9 similar to the abusive trusts described in IRS Public Notice 97-24. That Notice describes trust
10 arrangements that falsely promise that customers can claim tax benefits from trusts with no meaningful
11 change in the customers’ control over or benefit from their income or assets.

12 35. Defendants Lawrence and Vanderway, because of their education, experience and
13 sophistication in federal tax matters, knew or had reason to know that they made false or fraudulent
14 statements (within the meaning of IRC § 6700) in connection with the “Business Trust Organization”
15 arrangements that they organized, promoted and/or sold, or assisted in organizing, promoting, or selling.

16 36. By preparing income and informational tax returns for his customers and their entities that
17 improperly understated his customers’ tax liabilities, defendant Morris has engaged in preparing or
18 presenting a portion of a tax return or other document, knowing that such portion will be used in
19 connection with a material matter arising under the internal revenue laws, and knowing that such portion
20 (if so used), would result in understating the tax liability of another person. Morris’s conduct, therefore,
21 is subject to penalty under IRC § 6701.

22 37. Unless enjoined by this Court, defendants are likely to continue to engage in such conduct.
23 Injunctive relief is therefore appropriate under IRC § 7408.

24 **Count II**

25 **Injunction under IRC § 7407**

26 38. Plaintiff incorporates by reference the allegations in paragraphs 1-37.

27 39. Section 7407 of the Code authorizes a district court to enjoin an income tax return

preparer from:

- (a) engaging in conduct subject to penalty under IRC § 6694 (which penalizes a tax return preparer who prepares or submits a return that contains an unrealistic position);
- (b) engaging in conduct subject to penalty under IRC § 6695 (which penalizes a return preparer who fails to keep a list of clients or copies of tax returns and turn them over to the IRS upon request);
- (c) misrepresenting his experience or education as a tax return preparer; or
- (d) engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws,

if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct.

Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct and that a narrower injunction (*i.e.*, prohibiting only that specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin the person from further acting as a federal income tax return preparer.

40. Defendant Morris has prepared federal income tax returns for individual customers (Forms 1040), trusts (Forms 1041) and partnerships (Forms 1065) that understate their tax liability by taking unrealistic positions that are not properly disclosed or are frivolous.

41. Morris has continued to do this despite an IRS warning given to him in 2001.

42. Morris's actions, as described above, fall within IRC §§ 7407(b)(1)(A) and (D), and are thus subject to injunction under IRC § 7407.

43. Morris should be permanently enjoined from acting as a federal income tax return preparer because he is likely to continue to engage in this unlawful conduct unless enjoined.

Count III

Injunction under IRC § 7402 for Unlawful Interference with Enforcement of the Internal Revenue Laws an Appropriateness of Injunctive Relief

44. Plaintiff incorporates by reference the allegations in paragraphs 1-43.

45. Section 7402 of the Code authorizes a court to issue orders of injunction as may be

1 necessary or appropriate for the enforcement of the internal revenue laws.

2 46. Lawrence, Vanderway and Morris, through the actions described above, have engaged in
3 conduct that interferes substantially with the enforcement of the internal revenue laws.

4 47. If Lawrence, Vanderway and Morris are not enjoined, the United States will suffer
5 irreparable harm because the losses caused by defendants' actions will continue to increase.

6 48. While the United States will suffer irreparable injury if Lawrence, Vanderway and Morris
7 are not enjoined, defendants will not be harmed by being compelled to obey the law.

8 49. The public interest would be advanced by enjoining defendants because an injunction will
9 stop their illegal conduct and the harm that conduct is causing to the United States Treasury and the
10 public.

11 50. If Lawrence, Vanderway and Morris are not enjoined, they are likely to continue to
12 interfere with the enforcement of the internal revenue laws.

13 WHEREFORE, the plaintiff, the United States of America, prays for the following relief:

14 A. That the Court find that Lawrence, Vanderway and Morris have engaged in conduct subject to
15 penalty under IRC §§ 6700, 6701 and 6694, and that injunctive relief under IRC §§ 7407 and 7408 is
16 necessary and appropriate to prevent a recurrence of that conduct;

17 B. That the Court find that Lawrence, Vanderway and Morris have engaged in conduct that
18 interferes with the administration and enforcement of the internal revenue laws, and that injunctive
19 relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity
20 powers and IRC § 7402(a);

21 C. That this Court, pursuant to IRC § 7407, enter a permanent injunction prohibiting Morris
22 from acting as a federal income tax return preparer;

23 D. That this Court, pursuant to IRC §§ 7402(a) and 7408, enter a permanent injunction
24 prohibiting Lawrence, Vanderway and Morris, and their representatives, agents, servants, employees,
25 attorneys, and those persons in active concert or participation with defendants, from directly
26 or indirectly:

- (1) Engaging in activity subject to penalty under IRC § 6700, including organizing or selling a plan or arrangement and making a statement regarding the excludability of income that defendants know or have reason to know is false or fraudulent as to any material matter;
- (2) Engaging in activity subject to penalty under IRC § 6701, including preparing or assisting in the preparation of a document relating to a matter material to the internal revenue laws that includes a position that defendants know will result in an understatement of tax liability;
- (3) Organizing, promoting, marketing, or selling any type of tax shelter, plan or arrangement, including any asset protection device such as trusts, limited liability corporations and S-Corporations;
- (4) Engaging in any other activity subject to penalty under IRC §§ 6700 and/or 6701 or subject to any other penalty in the Internal Revenue Code;
- (5) Representing or appearing with or on behalf of any other persons or entities in connection with any matter before the Internal Revenue Service;
- (6) Preparing false or frivolous letters or other documents for others for submission to the Internal Revenue Service; and
- (7) Engaging in other conduct interfering with the administration and enforcement of the internal revenue laws.

E. That this Court, pursuant to IRC § 7402(a), enter an injunction requiring Lawrence and Vanderway to contact by mail all individuals and entities who have purchased their tax shelters, plans, arrangements or programs, or any other shelter, plan or program in which Lawrence and Vanderway have been involved, to inform those persons of the Court's finding concerning the falsity of their representations and attach a copy of the permanent injunction against Lawrence and Vanderway, and to file with the Court, within 15 days of the date the permanent injunction is entered, a certification that they each have done so;

1 F. That this Court, pursuant to IRC § 7402(a), enter an injunction requiring Lawrence and
2 Vanderway to produce to the United States, within 20 days of the date the permanent injunction is
3 entered, a list identifying the name, Social Security Number, address, e-mail address, and telephone
4 number of every person who has purchased defendants' plans, arrangements, programs, or any other
5 shelter, plan, or program in which Lawrence and Vanderway have been involved;

6 G. That this Court, pursuant to IRC § 7402(a), enter an injunction requiring Morris to contact
7 by mail all individuals and entities for whom he has prepared a federal income tax return since
8 January 1, 2000, to inform those persons of the Court's finding concerning his understatements of income
9 under IRC §§ 6701 and 6694, and attach a copy of the permanent injunction against Morris, and to file
10 with the Court, within 15 days of the date the permanent injunction is entered, a certification that he has
11 done so;


12 H. That this Court, pursuant to IRC § 7402(a), enter an injunction requiring Morris to produce to
13 the United States, within 20 days of the date the permanent injunction is entered, a list of the persons for
14 whom he has prepared a federal income tax return (including all Forms 1040, 1041 and 1120-S) since
15 January 1, 2000, identifying those persons by name, Social Security or other tax identification number,
16 address, e-mail address, and telephone number;

17 I. That this Court order that the United States is permitted to engage in post-judgment
18 discovery to ensure compliance with the permanent injunction; and
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1 J. That this Court grant the United States such other relief, including the costs of this action,
2 as is just and equitable.

3 Dated this 12th day of April, 2005.

4 PAUL K. CHARLTON
5 United States Attorney

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